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EXAMINER

COBURN, CORBETT B

ART UNIT

PAPER NUMBER

3714

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **DETAILED ACTION**

1. Applicant's proposed amendments will not be entered because they do not put the claims in condition for allowance. They do not, however, represent new issues that require further search or consideration. If Applicant files an RCE with these amendments, it will not represent a *bona fide* attempt to advance prosecution in this case & the Examiner may issue a final rejection.

2. As Logg illustrates, changing the viewpoint during a videogame is well known. Applicant cannot seriously contest this fact – there are hundreds, if not thousands, of examples of videogames that change the viewpoint. Applicant cannot argue that changing the viewpoint is in any way, whatsoever, novel. One of ordinary skill knows how to change the viewpoint in a videogame.

3. The changes a game designer chooses to make in the viewpoint during execution of a videogame are clearly a matter of design choice. There is nothing unexpected about the manner in which Applicant chooses to move the viewpoint. Applicant has merely moved a virtual camera using techniques well known to the art. A mere change of location of a virtual camera does not rise to the level of patentability. Using known techniques to achieve a predictable result is simply not patentable.

4. Applicant argues that there has been no showing that one of ordinary skill had the ability to change transparency levels of rendered object at the time of the invention. Examiner disagrees.

5. The prior art clearly shows that, at the time of Applicant's invention, those of ordinary skill in the art had the ability to render objects in different levels of transparency. If one can

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render an object as either opaque or transparent, then clearly one has the ability to change from one to the other. One might, for instance, render an apple as opaque in one frame & render it transparent in the next. Furthermore, the timing & conditions under which such a change is made is a matter of choice. Certainly, a programmer can choose any condition he desires for triggering such a change.

6. The prior art teaches the advantages of rendering an object as transparent when it is interposed between the virtual camera & a target. This would induce one of ordinary skill to make a change in the transparency levels of a rendered object when those conditions are met.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/  
Primary Examiner  
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